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KELLEY DRYE & WARREN LLP

A LIMITED LIABILITY PARTNERSHIP

EX PARTE OR LATE FILED

1200 19TH STREET, N.W.

SUITE 500

WASHINGTON, D.C. 20036

(202) 955-9600

NEW YORK, NY
LOS ANGELES, CA
CHICAGO, IL
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FACSIMILE

(202) 955-9792

www.kelleydrye.com

DIRECT LINE (202) 887-1230

E-MAIL: Gmorelli@KelleyDyre.com

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Magalie Roman Salas
Secretary
Federal Communications Commission
445 Twelfth Street, SW
Room TWB-204
Washington, D.C. 20554

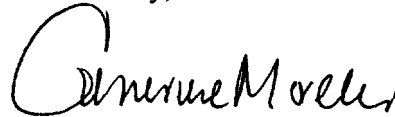
Re: *Ex Parte Presentation in CC Docket No. 96-98*

Dear Ms. Salas:

Please include the attached documents, filed on behalf of the Promoting Active Competition Everywhere ("PACE") Coalition, in the record of the above-captioned proceeding. These documents address the issue, currently pending in petitions for reconsideration of the Commission's November 1999 *UNE Remand Order*, of whether the Commission should expand the unbundled local switching restriction beyond the top 50 MSAs. The PACE Coalition urges the Commission to reject efforts to expand the restriction to additional MSAs.

In accordance with Section 1.1206 of the Commission's rules, an original and one copy of this letter is being filed with your office.

Sincerely,


Genevieve Morelli

cc: Dorothy Attwood
Jake Jennings
Jonathan Reel
Kathy Farroba
Ben Childers
Christopher Libertelli

No. of Copies rec'd 041
List A B C D E

**The Commission Should Reject ILEC Efforts to Expand the
Local Switching Restriction Beyond the Top 50 MSAs**

- I. The ILECs' central claim equates the distribution of NXX codes to the deployment of local switches.**
- A. NXX codes are used to define local calling areas and the traffic subject to reciprocal compensation.
 - B. NXX code distribution does not correlate with switch placement, nor does it imply anything about the types of services that competitors have made available.¹
 - 1. NXXs are requested to provide broad local coverage for ISPs.
 - 2. NXXs are requested in advance of market entry.
 - 3. NXXs are used by some entrants exclusively to serve customers on-net.
- II. Local switch deployment does not demonstrate that carriers would not be impaired without access to unbundled local switching.**
- A. Many switches are used to serve innovative market niches. Market data confirms that the switches that have been installed are heavily focused on supporting ISP competition, not providing conventional telecommunications services.²
 - B. Qwest's claim that NXX assignment is sufficient to prove lack of impairment should be totally disregarded because Qwest's claim that it does not measure traffic to CLEC switches is patently false.

¹ See Letter from Chuck Goldfarb to Magalie Roman Salas, Secretary, Federal Communications Commission, CC Docket No. 96-98, filed July 20, 2000 [misabeled as filed April 20, 2000].

² See Summary of Traffic Flow Statistics between ILEC and CLEC switches (Attachment 1).

III. Impairment cannot be corrected by installing a switch in a single market. Being able to serve multi-location customers requires the ability to establish a national or regional footprint. Consequently, impairment is a function of the *number* of MSAs needed to enter, as much as by the *size* of any individual MSA.

- A. Multi-location customers dominate the complex business services (i.e., over DS-1) market.
- B. A carrier's ability to serve multi-location customers is dependent upon a national or regional footprint. SBC has concluded that a carrier must be able to serve 70-75% of the locations of the Fortune 500 companies to compete effectively.³
- C. ILECs readily admit that carriers are constrained by how many markets they can reasonably enter.
 - 1. Bell Atlantic concluded that it needed to merge with GTE in order to be able to enter 21 new markets.⁴
 - 2. SBC determined that it must compete in the top 50 MSAs to serve large national accounts, and that only by merging with Ameritech could it reduce its entry requirements to a manageable 20 new markets.⁵ According to SBC, relying on de novo entry to evolve into a national local company "... would be a death march."⁶
- D. All non-ILEC entrants approach every market de novo. The 50-MSA restriction *already* imposes on new entrants a market barrier that is more than twice the barrier that the largest incumbent local exchange carrier found to be preclusive.

IV. The Commission should reject efforts to expand the limitation on the availability of unbundled local switching beyond the top 50 MSAs.

³ Testimony of James Kahn, SBC Senior Vice President, before the Ohio Public Utilities Commission, Case No. 98-1082-TP-AMT, Tr. 64, January 7, 1999.

⁴ See Declaration of David J. Teece on behalf of GTE Corporation and Bell Atlantic Corporation, Federal Communications Commission, CC Docket No. 98-184, paras. 41-43, filed December 18, 1998.

⁵ Testimony of James Kahn, SBC Senior Vice President, before the Ohio Public Utilities Commission, Case No. 98-1082-TP-AMT, Tr. 64, January 7, 1999.

⁶ Id. at Tr. 176-177.

PACE Coalition
CC Docket No. 96-98

	Originating with CLEC Customers	Terminating to CLEC Customers	Percent Terminating	Ratio
Ameritech				
Illinois	230,406,298	3,434,043,219	93.7%	14.9
Indiana	33,486,451	232,605,448	87.4%	6.9
Michigan	149,582,297	2,252,559,963	93.8%	15.1
Ohio	132,709,670	2,099,921,367	94.1%	15.8
Wisconsin	75,659,736	150,381,684	66.5%	2.0
	621,844,452	8,169,511,681	92.9%	13.1
BellSouth				
Alabama	63,893,673	1,110,340,395	94.6%	17.4
Florida	265,245,991	5,273,593,540	95.2%	19.9
Georgia	532,408,409	3,495,631,715	86.8%	6.6
Kentucky	51,170,678	875,672,410	94.5%	17.1
Louisiana	21,740,610	677,835,212	96.9%	31.2
Mississippi	22,339,144	226,339,146	91.0%	10.1
North Carolina	174,257,351	5,758,022,517	97.1%	33.0
South Carolina	43,883,674	281,224,315	86.5%	6.4
Tennessee	241,847,269	2,297,261,067	90.5%	9.5
	1,416,786,799	19,995,920,317	93.4%	14.1
Bell Atlantic				
DC	38,950,156	1,031,216,782	96.4%	26.5
Delaware	15,845,480	270,174,245	94.5%	17.1
Massachusetts	180,173,215	5,672,734,746	96.9%	31.5
Maryland	139,799,216	2,140,062,782	93.9%	15.3
Maine	4,143,573	249,195,301	98.4%	60.1
New Hampshire	170,725	615,395,441	100.0%	3604.6
New Jersey	122,141,294	1,413,892,982	92.0%	11.6
New York	915,277,526	14,004,243,283	93.9%	15.3
Pennsylvania	434,118,212	4,745,383,703	91.6%	10.9
Rhode Island	15,370,462	276,749,017	94.7%	18.0
Virginia	111,007,140	1,378,625,860	92.5%	12.4
Vermont	0	88,167,668	100.0%	n/a
West Virginia	1,856,228	401,870	17.8%	0.2
	1,978,853,227	31,886,243,680	94.2%	16.1

SBC		Originating with CLEC Customers	Terminating to CLEC Customers	Percent Terminating	Ratio
	Arkansas	189,051	151,386,741	99.9%	800.8
	Conneticut	n/r	n/r	n/a	n/a
	California	318,189,497	12,768,481,050	97.6%	40.1
	Kansas	0	190,132,009	100.0%	n/a
	Missouri	6,608	630,193,279	100.0%	95368.2
	Oklahoma	8,274,234	709,233,618	98.8%	85.7
	Texas	214,858,122	3,907,596,034	94.8%	18.2
		541,517,512	18,357,022,731	97.1%	33.9

Source: ILEC Responses To 5th Local Competition Survey
(Data as of 6/30/99)